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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,337	03/14/2007	Sedat Selvi	38566-79926	9693
23643 7590 07/09/2009 BARNES & THORNBURG LLP 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204				
EXAMINER				
MAL, TRI M				
ART UNIT		PAPER NUMBER		
3781				
NOTIFICATION DATE		DELIVERY MODE		
07/09/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

indocket@btlaw.com

Office Action Summary

Application No.

10/576,337

Applicant(s)

SELVI, SEDAT

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 26, 28-31 and 33-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1, 26, 28-31 and 33-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
Paper No(s)/Mail Date ____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____

1. The declaration filed on April 24/2009 has been received and has been considered. It is noted that applicant only detail the support of claim 1 over Hsieh reference. The examiner assumes that the affidavit only assert priority over claim 1.
2. Claims 1, 26-31, and 33-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim recites "a zip arrangement that provides both an opening closing facility and additional selective expansion" is inconsistent. There is two zipper fasteners each separately provide an opening/closing facility and the other for selective expansion of luggage. Thus, there are two zipper arrangements, not "one zip arrangement" as claimed.

3. Claims 1, 26, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu in view of Chang (20040101669) and Natho et al. (5004091). Lu teaches a wheeled luggage with a lid and a base with expandable body. Lu does not teach the body and lid made from EVA. Chang teaches that it is known in the art to provide a luggage body that is made from EVA without any peripheral support. It would have been obvious to one of ordinary skill in the art to make the body and the lid from EVA to provide the desired material for the luggage. With respect to the lid and base forming sections are molded as one-piece tray, Natho teaches that it is known in the art to provide both the body and lid can be made from molded as one-piece tray EVA. Thus, to make the two sections of Chang from molded EVA without any peripheral support would have been obvious to provide the desired material for the luggage.

Regarding claim 26, note that Lu teaches the selective expansion of the storage volume of the suitcase via a zipper as claimed.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over the Lu rejection, as set forth above in paragraph 3, in view of Ikelheimer (6102172). It would have been obvious to one of ordinary skill in the art to provide corrugations as taught by Ikelheimer to enable the manufacture of the shells easily.
5. Claims 29-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lu rejection, as set forth in paragraph 3, and further in view of Van Himbeek et al. (D492110) or Van Hooreweder (5197578). Either Van Himbeek or Van Hooreweder teaches that it is known in the art to provide two shells with wheels. It would have been obvious to one of ordinary skill in the art to provide the lid with wheels as taught by Van Himbeek to enable one to transport the case easily.
6. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lu rejection, as set forth in paragraph 3, and further in view of Nykoluk. Nykoluk teaches that it is known in the art to provide a zipper arrangement having additional expansion along with the piping support. It would have been obvious to one of ordinary skill in the art to provide the piping as taught by Nykoluk to help protect the zipper.
7. Claims 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu rejection, as set forth in paragraph 3, and further in view of Kotskin, Jr. (4773515). Kotskin teaches that it is known in the art to provide multiple pipings as shown in Fig. 4. It would have been obvious to one of ordinary skill in the art to provide additional pipings as claimed to provide added support at the zipper.
8. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lu rejection, as set forth in paragraph 3, and further in view of either Nykoluk et al. (6629588) or

Mitomi et al. (5447261). To the degree it is argued that Lu combination does not teach the indentations at the corners. Either Nykoluk '588 or Mitomi teaches that it is known in the art to provide indentations at the corners. It would have been obvious to one of ordinary skill in the art to provide indentations at the corners as taught by either Nykoluk '588 or Mitomi to provide the desired wheel assembly for the case.

9. Claims 26, 29, 30-32, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh (20050056511) in view of Nykoluk (6062356), and further in view of Chang (20040101669) or Natho et al.. Hsieh teaches a soft molded suitcase. Hsieh meets all claimed limitations except for the material being foamed plastics EVA. Chang or Natho teaches that it is known in the art to provide foamed plastic EVA in making a luggage. It would have been obvious to one of ordinary skill in the art to provide foamed plastic as taught by Lee to provide the desired material for the luggage. With respect to the zipper arrangement that provide the expansion. Nykoluk teaches that it is known in the art to provide a zipper arrangement having additional expansion along with the piping support. It would have been obvious to one of ordinary skill in the art to provide the zipper arrangement having additional expansion as taught by Nykoluk to enable one to store additional material.

10. Claims 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth above in paragraph 9, and further in view of Kotskin, Jr. (4773515). Kotskin teaches that it is known in the art to provide additional section of zip fasteners. It would have been obvious to one of ordinary skill in the art to provide additional sections of zip fasteners as taught by Kotskin to provide additional room for the contents.

Regarding claim 33, Kotskin teaches that it is known in the art to provide multiple pipings as shown in Fig. 4. It would have been obvious to one of ordinary skill in the art to provide additional pipings as claimed to provide added support at the zipper.

11. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth above in paragraph 9, in view of Ikelheimer (6102172). It would have been obvious to one of ordinary skill in the art to provide corrugations as taught by Ikelheimer to enable the manufacture of the shells easily.

12. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth in paragraph 9, and further in view of either Nykoluk et al. (6629588) or Mitomi et al. (5447261). To the degree it is argued that Nykoluk combination does not teach the indentations at the corners. Either Nykoluk '588 or Mitomi teaches that it is known in the art to provide indentations at the corners. It would have been obvious to one of ordinary skill in the art to provide indentations at the corners as taught by either Nykoluk '588 or Mitomi to provide the desired wheel assembly for the case.

13. Applicant's arguments have been fully considered but they are not persuasive. The affidavit detail and provide adequate support for claim 1. Thus, claim 1 has priority over the Hsieh reference.

With respect to the other prior art rejection, applicant is noted of the Lu in view of Chang and Natho rejection, as set forth above. Note that Lu teaches two shells luggage structure shown as the prior art in Figs. 1-2, Note that the lid has a tray like configuration as shown clearly in Fig. 2. Chang and Natho, each teaches the use of EVA as alternative material to form the

luggage shell. Furthermore, it is noted that Chang teaches a pull handle luggage with wheels. Thus, to provide the two shells of Lu from molded EVA would have been obvious.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on M-F 6 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tri M Mai/
Primary Examiner, Art Unit 3781